



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: National Office World, Inc.
File: B-224120
Date: September 5, 1986

DIGEST

1. Where a bidder submits required descriptive literature with its bid showing that material requirements of the solicitation will not be met, the agency must reject the bid as nonresponsive.
2. Mistake-in-bid procedures may not be used to cure an otherwise nonresponsive bid. •

DECISION

National Office World, Inc. protests the award of a contract for modular office structures to American Partitions & Modular Building Systems, Inc. under invitation for bids (IFB) No. F04700-86-B-0028, issued by the Air Force Flight Test Center, Edwards Air Force Base, California. We dismiss the protest.

The IFB stated that the contractor would be required to provide "[w]ire, run to power source ceiling conduit with fittings, bulbs, and all auxilliary items." The agency rejected the protester's bid because the descriptive literature submitted with the bid did not show that this requirement would be met. The literature stated that above-the-ceiling wiring materials, as well as lighting tubes and wires, would not be supplied. The protester says that its normal practice is to delete this language in its standard literature, but that it failed to do so in this case.

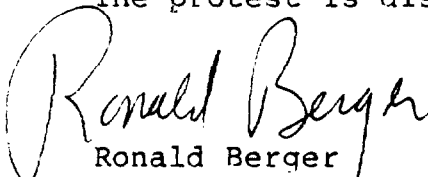
The protester contends that the agency should have assumed that it would have provided the required electrical items since the agency appears to have made such an assumption with respect to other items required by the IFB but not specifically mentioned in the protester's literature.

036602

Alternatively, the protester contends, the agency should have invoked the mistake-in-bid procedures of the Federal Acquisition Regulation, (FAR) 48 C.F.R. § 14.406 (1985), to question bidders concerning the items they intended to provide. In this connection, the protester has provided us with a page from the awardee's standard product brochure which also contains language excluding certain required electrical items. (The protester does not say whether the awardee submitted that brochure with its bid.) The protester seeks cancellation of the award to American and award to itself as the low, responsive bidder.

The protester has not stated a valid basis for protest. It is well settled that an agency must reject a bid as nonresponsive where the bidder submits required descriptive literature that shows that the product it is offering does not conform to the material requirements set forth in the IFB. Harnischfeger Corp., B-220036, Dec. 19, 1985, 85-2 CPD ¶ 689. Thus, the agency in this case was not at liberty to assume that the protester would comply with the requirements of the IFB in the face of the conflicting statement in its descriptive literature. With respect to the protester's alternative argument, mistake-in-bid procedures may not be used to cure an otherwise nonresponsive bid. McGrail Equipment Co., Inc., B-222091, Mar. 26, 1986, 86-1 CPD ¶ 293. Finally, it is not relevant that the awardee's standard brochure contains language that does not conform to the IFB requirements. The protester must show that descriptive literature actually submitted with the bid contained such language.

The protest is dismissed.


Ronald Berger
Deputy Associate
General Counsel